

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 07-CV-12300

RYAN HOLLIFIELD,

Defendant.

/

ORDER DENYING PETITION (MOTION) FOR SUBSTITUTED SERVICE

Before the court is this student loan collection case, in which the Plaintiff seeks and order permitting substituted service of process. In support, Plaintiff avers that “all attempts” by the process server have been unsuccessful “as the Defendant is evading service.” P’s Pet. At 1. Plaintiff further avers that “we have verified Defendant’s residence with the U. S. Postal Service. . . .” *Id.* Plaintiff attached no affidavit or additional explanation of the process server, but did include a “Verification of Process Server” printed on a State of Michigan fill-in-the-blanks form.

The blanks checked by the process server are these:

- “Occupant/Resident verified Defendant lives/works at the address”
- “None of the above, despite efforts to ascertain the aforementioned.”
- Contact cards/notices left after each unsuccessful attempt for defendant to call server.”

Other banks, left unchecked, are these:

- “Relative states Defendant lives/works at the address”
- “Neighbor states Defendant lives/works at the address”
- “Address verified by Port Office”

Further information provided by the server indicates that three attempts have been made to find Defendant at the address: Saturday, June 9, 2007, at 6:47 p.m., Thursday, June 14, 2007, at 9:12 a.m., and Thursday, June 21, 2007, at 6:39 p.m.. Although someone was apparently present on at least one of these occasions to speak to the server (through there is no clear indication as to which date), the lack of presence of the Defendant himself on three successive dates in June is not in any way inconsistent with normal living patterns nor does mere lack of presence show that the Defendant is “evading service,” as the Petition argues.

There is minimal explanation of the seeming inconsistency between the averments in the Petition and in the server’s Verification as to Post Office position on the accuracy of Defendant’s address (there is an attachment labeled a “change of address or boxholder request format,” stating “good as addressed”), and there is no explanation about the server’s apparent decision to not leave a copy of the summons and complaint with the “occupant/resident” who “verified Defendant lives/works at the address.” Also, there is no indication as to which of these two –“lives” or “works”– was actually intended by the server.

In short, this presentation is incomplete, inconsistent and unconvincing. What is needed, minimally, is an actual explanation in English by the process server of the situation he or she has encountered and what actual facts have been developed leading to the reasonable conclusion that the Defendant is evading service. A few blanks

checked on a form provided by a state court is seldom going to suffice, and does not suffice here.

The motion is DENIED without prejudice.

s/ Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 10, 2007